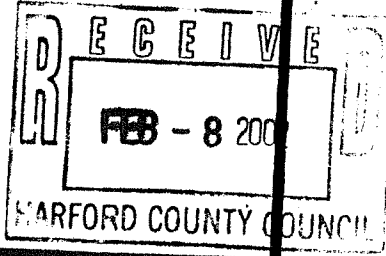


ZONING RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014



Shaded Area For Office Use Only

Case No. 115
Date Filed 2/1/02
Hearing Date _____
Pre-Conf. _____
Receipt _____
Fee \$800.00

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name Bel Air Properties II, LLC Phone Number call attorney
c/o Mr. Louis A. Cohen
Address 700 Kenilworth Drive, Towson MD 21204
Street Number Street State Zip Code

Property Owner Harford County, Maryland Phone Number 410-638-3210
Address 220 S. Main Street, Bel Air, MD 21014
Street Number Street State Zip Code

Contract Purchaser Bel Air Properties II, LLC Phone Number 410-296-7900
c/o Mr. Louis A. Cohen
Address 700 Kenilworth Drive, Towson MD 21204
Street Number Street State Zip Code

Attorney/Representative Michael E. Leaf, Esquire Phone Number 410-838-8990
Hodes, Ulman, Pessin & Katz, P.A.
Address 112 S. Main Street, Bel Air, MD 21014
Street Number Street State Zip Code

Hearing: 4/22/02

Land Description

Address and Location of Property (with nearest intersecting road) Conowingo Road at the intersection of
Route 23.

Subdivision N/A Lot Number N/A Acreage/Lot Size 9.47+ A Election District 3rd

Existing Zoning AG Proposed Zoning CI Acreage to be Rezoned 17.674 sq.ft.

Tax Map No. 41 Grid No. 1A Parcel 675 Deed Reference 3469/504

Critical Area Designation N/A Land Use Plan Designation Industrial/Employment

Present Use and ALL improvements: Presently the subject property is vacant.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.
Example: Conventional, Conventional with Open Space, Planned Residential Development) Commercial
subdivision/pad sites.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No If yes, describe: N/A

Estimated Time Requested to Present Case: One hour.

Required Information To Be Attached

(Submit three (3) copies of each):

- (a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.
- (b) A statement of the grounds for the application including:
- (1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.
 - (2) A statement as to whether there is an
- allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.
- (c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.
- (d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:
- (1) Location of site.
 - (2) Proposed nature and distribution of land uses, not including engineering drawings.
 - (3) Neighborhood (as defined by the Applicant).

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

Additional Information as Required by the Department of Planning and Zoning

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.

CASE 115 MAP 41 TYPE Rezoning

ELECTION DISTRICT 3 LOCATION Conowingo Road at Route 23

BY Bel Air Properties II, LLC c/o Mr. Louis A. Cohen, 700 Kenilworth Dr., Towson, Md. 21204

(OWNER: Harford County Maryland, Mr. John O'Neill Jr., Director of Administration, 220 S.

Main Street, Bel Air, Md. 21014)

Appealed because Section 267-12A of the Harford County Code requires approval by the Board to rezone 17,674 sq. ft. from an Agricultural District to a CI District requires approval by the Board.

I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.

HARFORD COUNTY, MARYLAND

By: John A. O'Neill, Jr., Director of Administration

Signature of Applicant/Owner

Date

Witness

Date

BEL AIR PROPERTIES II, LLC

By: Cohen Commercial Properties LLC, sole member

Signature of Contract Purchaser/Owner

Date

Witness

Date

Louis A. Cohen, Authorized Person

Signature of Attorney/Representative

Date

Witness

Date

Michael E. Leaf, Esquire

Director of Planning and Zoning

Date

Zoning Staff

Date

Joseph Kocy

ATTACHMENT A
TO PETITION FOR ZONING RECLASSIFICATION
BEL AIR PROPERTIES II, LLC, PETITIONER

The Petition for Zoning Reclassification requests the following information. Petitioner's submission is as follows:

(a) The names and addresses of all persons, organizations, or groups owning land, any part of which lies within five hundred feet (500') of the property proposed to be reclassified as shown on the current records of the State Department of Assessments and Taxation.

Petitioner: See Attachment A-1, List of Owners of Property within 500 feet.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

Petitioner: The existing AG classification of the subject property has been in place since 1957. The continuation of the AG classification beyond the 1997 comprehensive rezoning resulted from a mistake. In 1997, neither the County Council nor the County's Department of Planning and Zoning (the "Department") knew or could have known the final alignment of the Hickory Bypass or the extension of Maryland Route 23. Also, the relocation of Tucker Field to its present location was not foreseen in 1997.

Approximately 35 years ago, the State of Maryland acquired certain rights of way for the proposed construction of the Bypass, the extension of Route 23 and the relocation of Route 543. These projects were then shelved until 1996, when the State Highway Administration ("SHA") began acquiring additional rights of way for the Bypass construction and Route 23 extension (the "Project"). The relocation of Route 543 was eliminated from the original proposal. SHA acquired the final right of way that was needed for the Project on or about June 8, 1999, almost two (2) years after the adoption of the official zoning maps. SHA began construction of the Project on or about July 22, 1999, and the Bypass officially opened in July of 2000.

Because SHA was in the process of acquiring rights of way during the 1997 rezoning, the County Council and the Department had no way to know at that time whether AG

zoning would be appropriate for the subject property. While the Project was proposed and planned in 1997, neither the County Council nor the Department proposed any change to the zoning classification of the subject property due to the uncertainties with respect to the Project.

The uncertainties included the final alignment of the Bypass and the Route 23 extension and the ultimate disposition and use of rights of way which were not needed for the Project. Neither the County Council nor the Department knew or could have known at the time the property was originally zoned AG or during the comprehensive rezoning in 1997 how the subject property would be owned, configured or used. If the County Council or the Department had known the final alignment of the roads, the zoning classification probably would have been changed to correct the mistaken classification as AG.

Additional evidence of mistake may be found in the fact that the County acquired title to the subject property in March 2001. Initially, SHA intended to purchase rights of way from the County. However, SHA was left with approximately 9.5 acres of land, which was not needed for the Project. Because SHA agreed to relocate Tucker Field and because the subject property was suitable for the relocation, the County agreed to a swap of the subject property for the County's rights of way. If the County had known of the ultimate use and disposition of the subject property in 1997, the County probably would have corrected the zoning to make the zoning classification consistent with the intended use of the subject property.

(2) A statement as to whether there is an allegation of substantial change in the character of the neighborhood, and, if so, a precise description of such alleged substantial change:

Petitioner: In the alternative to Petitioner's argument of mistake above, the Petitioner alleges that there has been a substantial change in the neighborhood.

Since the last comprehensive rezoning in 1997, the neighborhood within which the subject property is located has undergone substantial changes. These changes justify the requested reclassification. As explained above, plans for the construction of the Hickory Bypass and the extension of Maryland Route 23 had been shelved for approximately 35 years. From 1996 through 1999, SHA was involved in the design and engineering of the Project and the acquisition of additional rights of way. Since 1997, SHA has completed construction of the Bypass.

Completion of the Project is only one obvious change that has occurred in the neighborhood in recent years. In addition to new roads, the neighborhood has seen the development of a "new" recreational facility, Tucker Field. As construction of Tucker Field nears completion, it is clear that no viable agricultural use of the subject property exists.

Another important change in the neighborhood is increased traffic. The relocation of Bel Air Church of the Nazarene is a sign of that change. The Church generated relatively few

trips on a daily basis (other than Sundays and religious holidays). The Project was intended to route more traffic through the neighborhood of the subject property. The Project succeeded in generating more traffic on a daily basis. Tucker Field generates more traffic through the neighborhood. The increased traffic, in conjunction with the other substantial changes in the neighborhood make the AG classification inadequate to accommodate growth in the neighborhood.

The changes described herein, which have occurred since the last comprehensive rezoning, justify the requested reclassification.

(c) A statement as to whether, in the Petitioner's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

Petitioner: The proposed classification promotes the goals of the 1996 Master Plan and Land Use Element Plan for Harford County ("Master Plan") for the following reasons:

1. The proposed classification promotes the Economic Development goals set forth in the Master Plan.

- The proposed classification provides for additional and necessary business uses, which are prohibited under the AG classification.

- The proposed classification allows for commercial development in a suitable area of the County.

- The majority of properties in the neighborhood already have business or industrial zoning designations, which serve surrounding residential properties and anticipated development in the area.

- The proposed classification permits development that will have positive short-term employment opportunities during the development and construction of the proposed commercial sites and long-term employment opportunities throughout the subsequent operation of businesses on the subject property.

- The Economic Development goals set forth in the Master Plan are best served by the proposed reclassification of 17,674 ± square feet of land which has no viable agricultural use. The proposed CI classification will permit the Petitioner to redevelop the subject property for business and commercial uses, which will enhance the quality of life for County residents.

2. The proposed classification promotes the Public and Community Facilities Goals set forth in the Master Plan.

- The proposed classification and subsequent exchange of properties between Harford County and the Petitioner will allow the County to provide needed parking for Tucker Field.

- Tucker Field, which was relocated in connection with construction of the Hickory Bypass, has limited parking for its two baseball diamonds and one football field. Pursuant to the exchange agreement between the County and the Petitioner, the County will acquire approximately 17,000 square feet of property zoned CI. The property to be acquired by the County will permit additional parking for Tucker Field to be constructed in an area that will provide reduced traffic congestion at the intersection of Conowingo Road and the Bypass and improved safety over parking on the subject property.

- Additional parking for Tucker Field will enhance the use of the ball fields by residents and community groups in accordance with the County's goals and objectives for Public and Community Facilities.

3. The proposed classification promotes the local Community Area Planning Goals.

- The subject property is located near the juncture of the Forest Hill Community Planning Area (the "Forest Hill Area") and the Greater Bel Air Community Planning Area (the "Bel Air Area"). The plan for the Forest Hill Area calls for continuing commercial, business and residential development in the area between Bel Air and the southern Forest Hill Area. The proposed classification will permit business and commercial development in the southern Forest Hill Area without increasing stresses on more rural areas.

- The Bel Air Area community plan calls for continuity between the Town of Bel Air and the surrounding area. The subject property is ideally situated for commercial development, which will serve residential areas within the Town, the Forest Hill Area and travelers on the Hickory Bypass. The proposed classification will allow the Petitioner to develop property within the Development Envelope without encroaching on the residential areas in the Town of Bel Air or rural areas within the Forest Hill Area.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

Petitioner: See Attachment A-2, Concept Plan prepared by Frederick Ward & Associates, Inc. entitled "Concept Plan Bel Air Properties, II, LLC_".

(2) Proposed nature and distribution of land uses, not including engineering drawings.

Petitioner: The Petitioner plans to subdivide its property in a manner which will (i) create a parcel consisting of approximately 17,000 square feet to be transferred to Harford County and (ii) incorporate the subject property into the adjoining property owned by the Petitioner. The proposed subdivision plan will create up to three (3) pad sites.

(3) Neighborhood (as defined by the Petitioner).

Petitioner: The neighborhood in which the subject property is located is defined as follows:

Northern Boundary: Old Jarrettsville Road

Southern Boundary: Bel Air Bypass

Eastern Boundary: Bel Air Bypass

Western Boundary: Former Route 23 Extension to the Bypass.

(4) All surrounding zoning.

41. Petitioner: See Attachment A-3, Official Zoning Map of Harford County, Map No.

(5) Proposed public or private capital improvements.

Petitioner: No public or private capital improvements are planned at this time.

(e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning within the neighborhood of the petitioned area, their case numbers, dates and decisions.

Petitioner: None.

(f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.

Petitioner: See Attachment A-4, Environmental Features Map.

(g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.

Petitioner: See Attachments A-5 (Site Plan) and A-6 (Deed).

- (h) Private restrictions or covenants, if any, applicable to subject parcel.

Petitioner:

None known.

- (i) Any agreements with individuals or associations in the neighborhood related to the proposed rezoning shall be submitted.

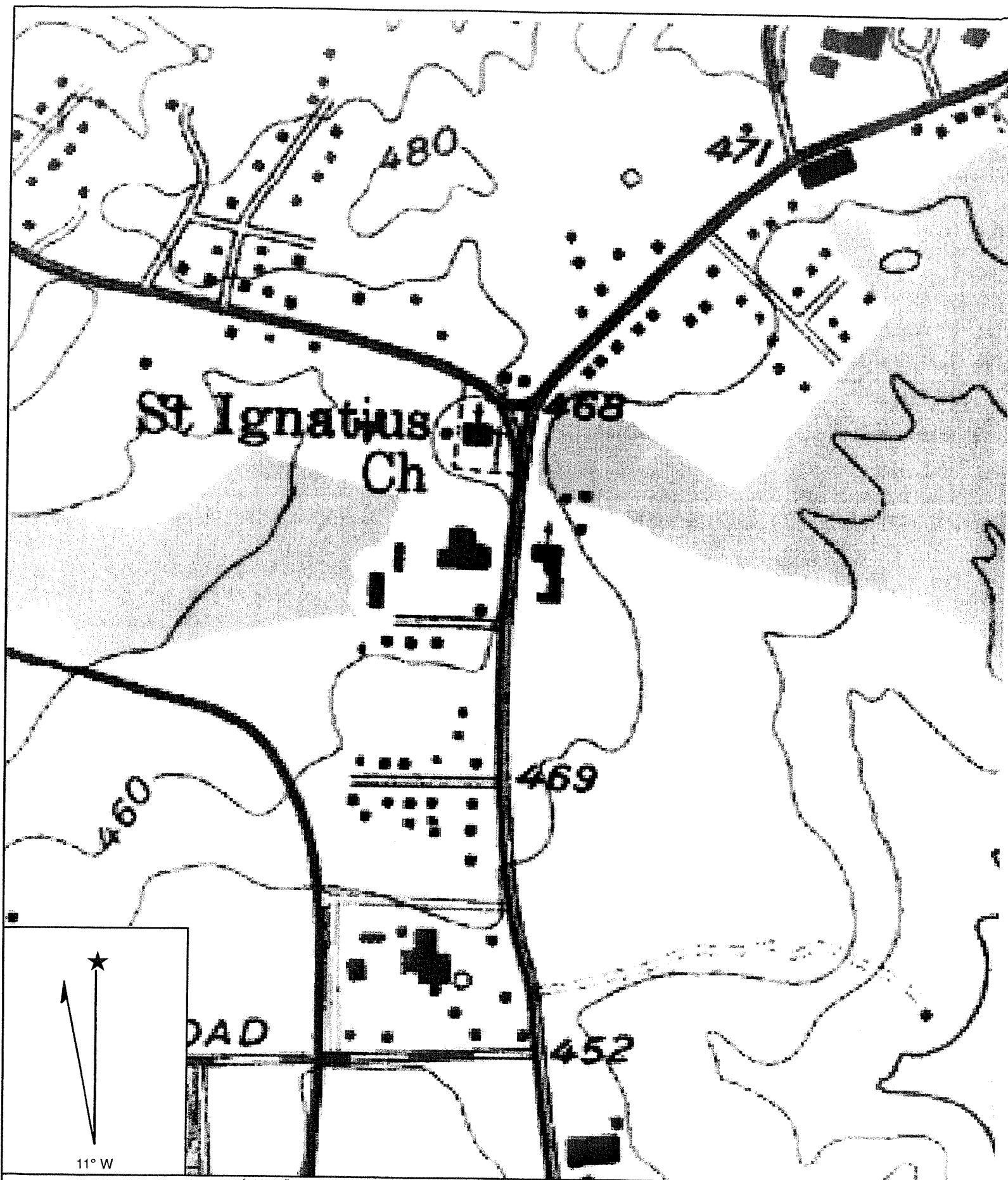
Petitioner: The Petitioner has not entered into any agreements with individuals or associations in the neighborhood related to the proposed rezoning.

- (j) Availability of public water and sewer.

Petitioner: Both public water and sewer are available.

**Additional Information as Required by
the Department of Planning and Zoning**

Counsel for the Petitioner met with representatives of the Harford County Department of Planning and Zoning on November 30, 2001, and no additional information was requested by the Department at this time.



Name: BEL AIR
Date: 12/21/2001
Scale: 1 inch equals 500 feet

**Attachment A-4 to Petition for
Zoning Reclassification
Bel Air Properties II, LLC,
Petitioner**

Location: 039° 34' 18.5" N 076° 21' 16.3" W
Caption: Bel Air Properties II, LLC